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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 VIRGINIA PEERA, an individual,

12 Plaintiff,

13 vs.

14 COSTCO WHOLESALE CORPORATION, a
business entity; and DOES 1 through 20,
15 Inclusive,

16 Defendants.

Case No.

Underlying Case No. 22CV398102
(Santa Clara County Superior Court)

**NOTICE OF REMOVAL TO FEDERAL
COURT** [Diversity of Citizenship, 28 U.S.C. §§
1332, 1441, 1446]

DEMAND FOR JURY TRIAL

1 TO THE CLERK OF THE ABOVE-NAMED FEDERAL DISTRICT COURT

2 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant
3 Costco Wholesale Corporation (hereinafter “Costco”) hereby removes Case No. 22CV398102 from
4 the Superior Court in and for the County of Santa Clara to the United States District Court for the
5 Northern District of California, San Jose Division.

6 **I. PROCEDURAL HISTORY**

7 On May 3, 2022, Plaintiff Virginia Peera (hereinafter “Peera”) filed a Summons, Civil Cover
8 Sheet, and Complaint in the Superior Court for the State of California in and for the County of Santa
9 Clara (hereinafter “Superior Court”), an action entitled *Virgina Peera v. Costco Wholesale*
10 *Corporation, and Does 1 through 20* (hereinafter “the Action”), Case No. 22CV398102.

11 On June 22, 2022, Defendant Costco filed an Answer to the complaint, requested a jury trial,
12 and deposited jury fees with the Superior Court in the Action. Costco is the only named Defendant in
13 the Action.

14 On September 12, 2022, Defendant Costco filed a proposed order cover sheet per a stipulated
15 protective order signed by both parties and a notice of remote appearance for the September 27, 2022,
16 Case Management Conference. Defendant Costco and Plaintiff Peera both filed their separate Case
17 Management Statements on September 12, 2022.

18 **II. BASIS FOR REMOVAL**

19 The Action is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441(a)
20 because this Court would have had original diversity jurisdiction over plaintiff’s claims pursuant to
21 the provisions of 28 U.S.C. § 1332(a)(1) on the grounds that plaintiff and defendant were and are
22 citizens of different States and the amount in controversy exceeds the sum or value of \$75,000.

23 **A. Citizenship of the Parties**

24 In reliance upon information obtained in its investigation of the claim that underlies the
25 Action, Costco asserts that Peera was and is a citizen and resident of the State of California. Costco,
26 the only named Defendant, was and is a corporation incorporated under the laws of the State of
27 Washington and has its principal place of business in Washington. Therefore, there is complete
28 diversity of citizenship.

1 B. Amount in Controversy

2 Plaintiff's complaint requests damages in excess of \$75,000.00. Specifically, Plaintiff's
3 attachment to their Case Management Statement dated September 12, 2022, explicitly states that
4 Peera's medical specials total over \$142, 592.20.

5 In accordance with 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders received
6 by Defendants, including the Summons and Complaint, are attached hereto and incorporated herein by
7 reference as **Exhibit A**.

8 **III. VENUE OF REMOVED ACTION**

9 This Court is the United States District Court for the district embracing the place where the
10 state court action is pending (the Superior Court in and for the County of Santa Clara). Therefore,
11 pursuant to 28 U.S.C. §§ 1441(b), 1446, and this Court's Civil Local Rule 3-2(d), the San Jose
12 Division of the United States District Court for the Northern District of California is the appropriate
13 court for the removal of the Action.

14 **IV. THIS NOTICE OF REMOVAL IS TIMELY FILED**

15 The removal of this civil action to this Court is timely under 28 U.S.C. § 1446(b) because this
16 Notice of Removal is filed within thirty (30) days after September 12, 2022, which is the date
17 defendant Costco Wholesale Corporation, through its counsel, first learned from counsel for Ms. Peera
18 of facts establishing federal subject matter jurisdiction by virtue of diversity of citizenship of the
19 parties and an amount in controversy exceeding the jurisdictional minimum.

20 The United States District Court for the Northern District of California, San Jose Division, is
21 the proper place to file this Notice of Removal under 28 U.S.C. § 1441(a) because it is the federal
22 district court that embraces the place where the original state court action was filed and is pending.

23 **THE SANTA CLARA SUPERIOR COURT**

24 Concurrently with this Notice of Removal for Federal Court, Defendant Costco will file a
25 Notice to Plaintiff of Removal of Action to Federal Court, along with a copy of this Notice of
26 Removal for Federal Court with the Superior Court of the State of California in and for the County of
27 Santa Clara, and in accordance with 28 U.S.C. §§ 1446(d), Defendant Costco will serve a copy thereof
28 upon counsel for Plaintiff Virginia Peera. A copy of the prepared Notice to Plaintiff of Removal to

1 Federal Court is attached hereto and incorporated herein by reference as **Exhibit B**.

2 **V. JURY TRIAL DEMAND**

3 Defendant Costco hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

4 **CONCLUSION**

5 For the foregoing reasons, defendant Costco Wholesale Corporation respectfully requests
6 that this civil action be, and is hereby, removed to the United States District Court for the Northern
7 District of California, San Jose Division, that said federal district court assume jurisdiction of this
8 civil action, and that this Court enter such further orders as may be necessary to accomplish the
9 requested removal and to promote the ends of justice.

10 Dated: September 30, 2022

FORD, WALKER, HAGGERTY & BEHAR, LLP

11
12 By: /S/ Arthur J. Casey

ARTHUR J. CASEY

Attorney for Defendant

COSTCO WHOLESALE CORPORATION